

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

January 8, 2013

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Kemp Conrad, Shea Flinn, Janis Fullilove, Wanda Halbert, Lee Harris, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland and Chairman Edmund H. Ford, Jr.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Rev. Vernon G. Robinson, Chairman Conference Studies of the West Tennessee/Mississippi Conference A.M.E. Zion Church. Chairman Ford presented Rev. Robinson with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of December 18, 2012 with the following motion:

MOTION: Hedgepeth
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Harris abstained

APPROVED

20. **ORDINANCE AMENDING CHAPTER 21, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO ESTABLISH AN ENVIRONMENTAL FEE, UP FOR T H I R D AND F I N A L READING. (HELD FROM 9/4)**

Ordinance No. 5456

Held until March 5, 2013

21. **ORDINANCE AMENDING CHAPTER 21, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO ESTABLISH A MOTOR VEHICLE INSPECTION FEE, UP FOR T H I R D AND F I N A L READING. (HELD FROM 9/4)**

Ordinance No. 5461

DROPPED

22. **ORDINANCE TO AMEND CABLE FRANCHISE ORDINANCE NO. 5331 TO BE CONSISTENT WITH COUNCIL'S AUTHORITY AND INTENT, UP FOR T H I R D AND F I N A L READING. (HELD FROM 10/2; 11/6; 12/4; 12/18)**

Ordinance No. 5473

Held until January 22, 2013

23. **ORDINANCE TO AMEND CHAPTER 9-60 (LITTER CONTROL) OF THE CITY OF MEMPHIS CODE OF ORDINANCES TO ADD VEHICLE IMPOUNDMENT FOR ILLEGAL DUMPING, UP FOR T H I R D AND F I N A L READING. (HELD FROM 11/6; 12/18)**

Ordinance No. 5474

Held until January 22, 2013

24. **ORDINANCE TO AMEND CHAPTER 9-58 (TIRE BUSINESS AND TIRE HAULER REGISTRATION) OF THE CITY OF MEMPHIS CODE OF ORDINANCES TO ADD VEHICLE IMPOUNDMENT FOR ILLEGAL DUMPING, UP FOR T H I R D AND F I N A L READING. (HELD FROM 11/6; 12/18)**

Ordinance No. 5475

Held until January 22, 2013

25. **ORDINANCE AMENDING TITLE 6, BUSINESS LICENSES AND REGULATION, OF THE MEMPHIS, TENNESSEE, CODE OF ORDINANCES TO ADD CHAPTER 105, PROHIBITING WAGE THEFT, PROVIDING ADMINISTRATIVE PROCEDURES FOR WAGE THEFT, AND ALLOWING SHELBY COUNTY GOVERNMENT TO IMPOSE PENALTIES AGAINST THOSE EMPLOYERS FOUND GUILTY OF WAGE THEFT, UP FOR T H I R D AND F I N A L READING. (HELD FROM 12/18)**

Ordinance No. 5478

Held until February 5, 2013

26. **ORDINANCE TO AMEND NO. 4934, OF THE CITY CODE OF ORDINANCES, CHAPTER 2, ARTICLE III, DIVISION 4, PUBLIC ART – PUBLIC ART PROGRAM FOR THE CITY OF MEMPHIS, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5488

Held until February 5, 2013

1. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON THE WESTERN TERMINUS OF NORTHPOINTE DRIVE; +/-985 FEET WEST OF NEW ALLEN ROAD, CONTAINING 0.88 ACRE (38,319 SQ. FT.) IN THE EMPLOYMENT (EMP) DISTRICT.**

Case No. SAC 12-606

Applicants: Nike TN, Inc. & Belz Investco, GP
The Reaves Firm, Inc. – Representative

Request: Close and vacate public right-of-way

LUCB and OPD recommendation: APPROVAL, with two (2) conditions

MOTION: Collins
SECOND: Hedgepeth
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford

APPROVED

2. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON THE WEST SIDE OF NEW ALLEN ROAD; +/-1,950 FEET NORTH OF NEW FRAYSER BOULEVARD, CONTAINING 1.65 ACRES (71,976 SQ. FT.) IN THE EMPLOYMENT (EMP) DISTRICT.**

Case No. SAC 12-607

Applicants: Belz Investco, GP
The Reaves Firm, Inc. – Representative

Request: Close and vacate public right-of-way

LUCB and OPD recommendation: APPROVAL, with (3) conditions

MOTION: Collins
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford

APPROVED

3. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTH SIDE OF STAGE ROAD, 563 FEET EAST OF COVINGTON PIKE, CONTAINING .56 ACRE IN THE RU-2 DISTRICT.**

Case No. PD 12-318

Applicant: Sala Farsi and Clare McTernan
Cindy Reaves, SR Consulting, LLC – Representative

Request: Additional use of property for Day Care uses on Parcel 8

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth,
Lowery, Morrison, Strickland and Chairman Ford

APPROVED

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED AT 3951 OLD COVINGTON PIKE, CONTAINING 1.88 ACRES IN THE RS-10 DISTRICT.**

Case No. PD 12-321

Applicant: Commerce Union Bank – Mark McDowell
Brenda Solomito – Representative

Request: Planned Development for a Group Home operating up to 20 residents

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth,
Lowery, Morrison, Strickland and Chairman Ford

APPROVED

5. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE WEST SIDE OF MOUNTAIN TERRACE; +/-48 FEET SOUTH OF SAINT ELMO ROAD, CONTAINING 34.6 ACRES IN THE RESIDENTIAL SINGLE FAMILY-8 (R-8) DISTRICT.**

Case No. SUP 12-222

Applicant: Cellular South Real Estate, Inc.
Belinda Bodie – Representative

Request: Proposal to construct a one hundred forty foot (140') monopole
Communications tower

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins

SECOND: Fullilove

AYES: Boyd, Collins, Conrad, Fullilove, Halbert, Harris, Lowery, Morrison, Strickland
and Chairman Ford
Flinn recused
Brown and Hedgepeth did not cast a vote

APPROVED

6. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED AT 2830
WOODLAWN TERRACE, 180 FEET SOUTH OF PORTLAND AVENUE,
CONTAINING 0.25 ACRE IN THE RESIDENTIAL SINGLE FAMILY-6 (R-6)
DISTRICT.**

Case No. SUP 12-223

Applicant: Clutch Investments
LaToya Weaver – Representative

Request: Group Day Care (up to 12 children)

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins

SECOND: Halbert

AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth,
Lowery, Morrison, Strickland and Chairman Ford

APPROVED

7. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE WEST
SIDE OF ELVIS PRESLEYBOULEVARD, 175 FEET +/- TO THE SOUTHERN RIGHT
OF-WAY LINE OF HERNANDO, CONTAINING 3.49 ACRES IN THE CMU-
DISTRICT.**

Case No. SUP 12-224

Applicant: EP3 Developers, LLC
Brenda Solomito – Representative

Request: Hotel within a CMU-3 Zoning District

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Collins

SECOND: Halbert

AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford

APPROVED

34. **RESOLUTION SEEKING GRANT FUNDS FROM THE STATE OF TENNESSEE FOR THE CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS THAT WILL FACILITATE THE EXPANSION OF THE NIKE FACILITY LOCATED AT 3100 FRAYSER BOULEVARD.**

MOTION: Hedgepeth

SECOND: Fullilove

AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford

APPROVED

CONSENT AGENDA – Items 8 - 13 and may be acted upon by one motion: SEE PAGE 2464 FOR ROLL CALL

8. **ORDINANCE TO AMEND TITLE 7 – ALCOHOLIC BEVERAGES, CHAPTER 7-8 – BEER AND LIGHT ALCOHOLIC BEVERAGES, ARTICLE 2 – LICENSE TO STORE, SELL, DISTRIBUTE OR MANUFACTURE, OF THE CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO CREATE A CATERER’S PERMIT, UP FOR S E C O N D READING.**

Ordinance No. 5490

APPROVED, on Second reading

9. **JOINT ORDINANCE AMENDING THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE, AS ADOPTED BY THE CITY OF MEMPHIS AUGUST 10, 2012 AND BY SHELBY COUNTY AUGUST 9, 2012, AS AMENDED TO REVISE AND ENHANCE THE JOINT ZONING AND SUBDIVISION REGULATIONS AS RECOMMENDED BY THE MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT AND THE LAND USE CONTROL BOARD, UP FOR S E C O N D READING.**

Case No. ZTA 12-002

Ordinance No. 5491

APPROVED, on Second reading (Public Hearing Set for January 22, 2013)

10. **JOINT ORDINANCE AND RESOLUTION AMENDING THE MEMPHIS AND SHELBY COUNTY UNIFIED DEVELOPMENT CODE TO MAKE CERTAIN CHANGES IN THE MAP AND TO COMPLY WITH REGULATIONS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, UP FOR S E C O N D READING.**

Case No. Z 12-107
Ordinance No. 5492

APPROVED, on Second reading (Public Hearing Set for January 22, 2013)

11. **RESOLUTION APPROVING FINAL PLAT OF PARK GETWELL SUBDIVISION.**

Case No. S 12-008

Resolution approves the final plat located on the south side of Park Avenue, west of Getwell. Cost of the required improvements to be borne by the developer.

APPROVED

12. **RESOLUTION APPROVING FINAL PLAT OF POLO GROUNDS NORTH, P.D., PHASE 5.**

Case No. PD 99-344

Resolution approves the final plat located at Winchester and Polo Grounds Boulevard. Cost of the required improvements to be borne by the developer.

APPROVED

13. **NOTATION** from Land Use Control Board that the following case was heard and recommendation made requesting a date of public hearing:

A. Case No. PD 12-319

Public Hearing Set for January 22, 2013

ROLL CALL CONSENT ITEMS

MOTION: Morrison
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison and Chairman Ford
Strickland did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 14 - 17 may be acted upon by one motion:

14. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11491, SYSTEM FURNITURE, WITH STAPLES, IN THE FUNDED AMOUNT OF \$248,890.00. (THIS CHANGE RENEWS THE CURRENT CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS COVERING THE PERIOD JANUARY 23, 2013 TO JANUARY 22, 2014 WITH NO INCREASE IN RATES.)**

APPROVED

15. **RESOLUTION APPROVING THE RENEWAL OF COOPERATIVE AGREEMENT NO. 5447, INVESTIGATION OF WATER RESOURCES, FOR THE PERIOD OF JANUARY 1, 2013 TO DECEMBER 31, 2013, IN THE AMOUNT OF \$57,000.00. (MLGW TO PROVIDE \$57,000.00 AND A LIKE SUM WILL BE PROVIDED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY FOR CONTINUATION OF THE GROUND WATER DATA COLLECTION PROGRAM IN THE MEMPHIS AREA).**

APPROVED

16. **RESOLUTION APPROVING WATER SYSTEM SERVICE CONTRACT NO. 11610, BETWEEN MLGW AND THE TOWN OF COLLIERVILLE. (MLGW WILL CONTINUE TO PROVIDE CUSTOMERS IN THE 2012 ANNEXED AREA WITH POTABLE WATER UNTIL SUCH TIME AS COLLIERVILLE AND MLGW HAVE CONSUMMATED A TRANSACTION FOR THE ACQUISITION BY COLLIERVILLE OF EXISTING FACILITIES IN ACCORDANCE WITH THE PROVISIONS OF TENNESSEE LAW AND COLLIERVILLE HAS ASSUMED RESPONSIBILITY FOR PROVIDING THE CUSTOMERS IN THE 2012 ANNEXED AREA WITH POTABLE WATER.)**

APPROVED

17. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11413, SURVEYING SERVICES, WITH BENCHMARK-OLLAR SURVEYING, IN THE FUNDED AMOUNT OF \$136,095.00. (THIS CHANGE IS TO RENEW THE CONTRACT FOR THE SECOND OF FOUR RENEWAL TERMS FOR THE PERIOD COVERING JANUARY 19, 2013 TO JANUARY 18, 2014.)**

APPROVED**MLGW ROLL CALL CONSENT ITEMS**

MOTION: Fullilove
SECOND: Morrison
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford

APPROVED, with the exception of #18

18. **RESOLUTION APPROVING THE SELECTION OF MEMPHIS BIOMED VENTURES III, LP TO MANAGE APPROXIMATELY \$2,000,000.00 FOR THE BENEFIT OF THE MLGW OPEB TRUST FUND, AS PART OF A REALLOCATION.**

Held until January 22, 2013

19. **APPOINTMENTS**

ANIMAL SHELTER ADVISORY BOARD

APPOINTMENT

ANGELA WICKS

REAPPOINTMENT

JEANNE CHANCELLOR

MEMPHIS AND SHELBY COUNTY AIR POLLUTION CONTROL BOARD

REAPPOINTMENT

ROBERT D. CASH

MEMPHIS AND SHELBY COUNTY JOINT BOARD OF APPEALS

REAPPOINTMENTS

FRED L. COLLIER

BRIAN F. MANN

MEMPHIS AND SHELBY COUNTY NEW ARENA PUBLIC BUILDING AUTHORITY

APPOINTMENT

WILLIE F. BROOKS, JR.

MEMPHIS AND SHELBY COUNTY PLUMBING CODE BOARD

APPOINTMENT

ANDREW T. MAHONEY

REAPPOINTMENTS

THOMAS BOYD, JR.
HAROLD MCDONALD

MOTION: Flinn
SECOND: Morrison
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery,
Morrison, Strickland and Chairman Ford
Conrad did not cast a vote

APPROVED

29. **RESOLUTION AMENDING THE FY 2013 OPERATING BUDGET BY TRANSFERRING FUNDS IN THE AMOUNT OF \$78,198.34 FROM THE COLISEUM (230101) TO THE LIBERTY BOWL MEMORIAL STADIUM (150901) AND PERSONNEL COSTS IN THE AMOUNT OF \$29,000.00 FROM THE COLISEUM (230101) TO THE MEMPHIS ANIMAL SERVICES FOR A TOTAL OF \$107,198.34.**

MOTION: Boyd
SECOND: Morrison
AYES: Boyd, Collins, Conrad, Flinn, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland and Chairman Ford
NAY: Harris
Brown did not cast a vote

APPROVED

30. **RESOLUTION AMENDING THE FY 2013 CIP BUDGET BY ALLOCATING AND APPROPRIATING \$12,000,000.00 FOR THE ARCHITECTURAL, ENGINEERING AND CONSTRUCTION COSTS ASSOCIATED WITH THE LIBERTY BOWL STADIUM IMPROVEMENTS PROJECT, PHASE II-ADA.**

MOTION: Boyd
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland and Chairman Ford
NAYS: Conrad and Harris

APPROVED

27. **ORDINANCE TO ESTABLISH MEETING DATES FOR CITY COUNCIL MEETING IN 2013, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5489

MOTION: Morrison
SECOND: Boyd

AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Lowery,
Morrison, Strickland and Chairman Ford
Hedgepeth did not cast a vote

APPROVED

28. **RESOLUTION ACCEPTING AND APPROPRIATING \$240,000.00 IN GRANT FUNDS FROM THE ASSISI FOUNDATION FOR LIFESAVING EQUIPMENT.**

MOTION: Conrad
SECOND: Boyd
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Lowery,
Morrison, Strickland and Chairman Ford
Hedgepeth did not cast a vote

APPROVED

31. **RESOLUTION ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$124,995.00 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION FOR THE MEMPHIS YOUTH VIOLENCE CAPACITY BUILDING PROJECT.**

MOTION: Conrad
SECOND: Boyd
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Lowery,
Morrison, Strickland and Chairman Ford
Hedgepeth did not cast a vote

APPROVED

32. **RESOLUTION TRANSFERRING THE ALLOCATION OF STATE GRANT FUNDS FOR \$112,515.00 FROM A&E TO CONSTRUCTION. THE PROJECT WAS SET UP USING ESTIMATED NUMBERS FOR A&E AND CONSTRUCTION. NOW THAT THE ACTUAL BID NUMBERS HAVE BEEN RECEIVED, THE BUDGET NUMBERS NEED TO BE ADJUSTED.**

MOTION: Morrison
SECOND: Strickland
AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Harris, Lowery,
Morrison, Strickland and Chairman Ford
Hedgepeth did not cast a vote

APPROVED

33. **RESOLUTION TO APPROVE SIX MONTH EXTENSION OF FRANCHISE AGREEMENT WITH XO COMMUNICATIONS, INC.**

MOTION: Morrison
SECOND: Strickland
AYES: Boyd, Brown, Collins, Conrad, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Flinn recused

APPROVED

(Special Item #1 – Councilman Lowery made a motion to approve Same Night Minutes for Items #1, #2, #29, #30 & #34, from tonight’s meeting)

MOTION: Lowery
SECOND: Fullilove
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Harris, Hedgepeth, Lowery, Morrison, Strickland and Chairman Ford
Conrad did not cast a vote

APPROVED

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Ford recognized the following person who spoke from the audience

Lee Cochran, 179 Richbriar St., Memphis, Tennessee 38120

ADJOURNED MEETING AT 4:31 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records